

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

WIRTGEN AMERICA, INC.,

Plaintiff/Counterclaim-Defendant,

v.

CATERPILLAR INC.,

Defendant/Counterclaim-Plaintiff.

C.A. No. 17-770-JDW

**PLAINTIFF'S MOTION FOR JUDGMENT
ON THE PLEADINGS THAT THE '538 PATENT IS INAVLID**

Plaintiff Wirtgen America, Inc. ("Wirtgen") respectfully moves for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c), on the ground that representative claim 13 of U.S. Patent No. 9,975,538 (the only remaining claim asserted by Caterpillar, Inc.) is ineligible for patenting under 35 U.S.C. § 101 because the claim is directed to an abstract idea and lacks an inventive concept.

The bases for Wirtgen's Motion are set forth in the accompanying brief.

Date: May 21, 2024

Of Counsel:

Ryan D. Levy
Seth R. Ogden
William E. Sekyi
Mark A. Kilgore
PATTERSON INTELLECTUAL PROPERTY LAW, P.C.
Roundabout Plaza
1600 Division Street, Suite 500
Nashville, Tennessee 37203
(615) 242-2400
rdl@iplawgroup.com
sro@iplawgroup.com
wes@iplawgroup.com
mak@iplawgroup.com

YOUNG CONAWAY STARGATT
& TAYLOR, LLP

/s/ Adam W. Poff
Adam W. Poff (No. 3990)
Samantha G. Wilson (No. 5816)
Rodney Square
1000 North King Street
Wilmington, DE 19801
(302) 571-6600
apoff@ycst.com
swilson@ycst.com

- and -

Daniel E. Yonan
Paul A. Ainsworth
William H. Milliken
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1101 K Street, NW, 10th Floor
Washington, DC 20005
(202) 371-2600
dyanan@sternekessler.com
painsworth@sternekessler.com
wmilliken@sternekessler.com

Attorneys for Wirtgen America, Inc.

CERTIFICATE OF SERVICE

I, Adam W. Poff Esquire, hereby certify that on May 21, 2024, I caused the foregoing document to be served by email upon the following counsel:

Bindu A. Palapura
Andrew L. Brown
POTTER ANDERSON & CORROON, LLP
1313 N. Market Street, 6th Floor
Wilmington, DE 19801
bpalapura@potteranderson.com
abrown@potteranderson.com

James C. Yoon
Ryan R. Smith
Christopher Mays
WILSON SONSINI GOODRICH &
ROSATI, P.C.
650 Page Mill Road
Palo Alto, CA 94304
jyoon@wsgr.com
rsmith@wsgr.com
cmays@wsgr.com

Lucy Yen
Michelle Dang
WILSON SONSINI GOODRICH &
ROSATI, P.C.
1301 Avenue of the Americas
40th Floor
New York, NY 10019
lyen@wsgr.com
mdang@wsgr.com

Matthew A. Macdonald
Naoya Son
Alexander Turner
Neil N. Desai
WILSON SONSINI GOODRICH &
ROSATI, P.C.
953 East Third Street
Suite 100
Los Angeles, CA 90013
matthew.macdonald@wsgr.com
nson@wsgr.com
aturner@wsgr.com
ndesai@wsgr.com

caterpillar@wsgr.com

YOUNG CONAWAY STARGATT &
TAYLOR, LLP

/s/ Adam W. Poff

Adam W. Poff (No. 3990)
Samantha G. Wilson (No. 5816)
Rodney Square
1000 North King Street
Wilmington, DE 19801
(302) 571-6600
apoff@yest.com
swilson@yest.com

Attorneys for Plaintiff